

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**CHRIS RECTOR and
MICHELLE RECTOR**

PLAINTIFFS

v.

Case No. 4:20-cv-1025-KGB

**MARTIN “SONNY” CLIFFORD,
individually and in his official capacity as
Van Buren County Sheriff’s Deputy,
LUCAS EMBERTON, KIM MONGOLD,
CRYSTAL GARNER, VAN BUREN
COUNTY VETERINARY CLINIC, INC.,
and CITY OF HEBER SPRINGS**

DEFENDANTS

ORDER

Before the Court are several pending motions filed by separate defendant City of Heber Springs, Arkansas (“City”) and separate defendants Martin “Sonny” Clifford, in his official capacity as Van Buren County Sheriff’s Deputy, and Lucas Emberton (collectively “County Defendants”), and separate defendants Martin “Sonny” Clifford, in his individual capacity and Kim Mongold (Dkt. Nos. 39; 42–43; 47; 58).

On August 25, 2020, separate County Defendants, separate defendants Mr. Clifford and Ms. Mongold, and separate defendants Tony Smith and Little Rock K-9 Academy¹ removed this case to this Court from the Circuit Court of Van Buren County, Arkansas (Dkt. No. 1). On August 27, 2021, plaintiffs Michelle Rector and Chris Rector filed a fourth amended complaint adding the City as a defendant in this lawsuit and pleading additional facts related to the City (Dkt. No. 22). On October 29, 2021, Mr. Rector and Ms. Rector filed a motion for partial summary judgment (Dkt. No. 36).

¹ On August 6, 2021, the Court dismissed without prejudice Mr. Smith and Little Rock K-9 Academy as defendants in this case (Dkt. No. 19).

I. Motion To Stay Consideration Of Motion For Partial Summary Judgment

The City requests that the Court grant its motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 39). The City acknowledges that Mr. Rector and Ms. Rector's motion for partial summary judgment does not appear to be directed against the City (Dkt. No. 39, ¶ 8). The City argues, however, that any findings by the Court in ruling on the pending motion may impact the City's defense (*Id.*). Accordingly, the City requests that this Court stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment until the dispositive motion deadline expires so that the City has adequate time to conduct discovery before filing a response (*Id.*, ¶ 9). The City represents that the other defendants do not object to this request (*Id.*, ¶ 10).

Mr. Rector and Ms. Rector responded in opposition to the City's motion to stay (Dkt. No. 40). Mr. Rector and Ms. Rector argue that a stay will delay settlement talks and that a resolution of the motion for partial summary judgment does not affect the City's liability (*Id.*, ¶ 2).

The City requests leave to file a reply to Mr. Rector and Ms. Rector's response to the pending motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 42). No party has filed an objection to the motion, and the time to do so has passed. The Court grants the motion (*Id.*). The Court directs the City to file its reply within seven days from the entry of this Order. The Court has under advisement the City's motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 39).

II. Motion For New Scheduling Order

The City also requests that the Court enter a new scheduling order and a ruling on the City's motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 58). The City requests that the Court set a deadline for the City's response to Ms. Rector

and Mr. Rector's motion for partial summary judgment in the event that the Court denies the City's motion to stay (*Id.*, ¶ 4).

Mr. Rector and Ms. Rector filed a response (Dkt. No. 59). Mr. Rector and Ms. Rector assert that "[i]t is still unclear" what the City continues to seek to uncover by staying the disposition of the motion for partial summary judgment and that they will be prejudiced by further delay of their lawsuit (*Id.*, ¶ 3). Mr. Rector and Ms. Rector state that they do not object to a new scheduling order and note that they need time to conduct expert discovery (*Id.*, ¶ 4).

The Court grants, in part, and denies, in part, the City's motion for a new scheduling order and a ruling on separate defendant's motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 58). The Court will set a new trial date and enter a new scheduling order, which will include extended discovery and dispositive motions deadlines among others, by separate Order. The Court has under advisement the City's motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 39).

III. Unopposed Motion For Brief Extension Of Time

County Defendants filed an unopposed motion for brief extension of time to respond to plaintiffs' motion for partial summary judgment (Dkt. No. 43). County Defendants requested an extension of time up to and including November 19, 2021, to file their response to Mr. Rector and Ms. Rector's motion for partial summary judgment (*Id.*, ¶ 4). For good cause shown, the Court grants the County Defendants' motion (Dkt. No. 43). Accordingly, the Court considers County Defendants' responses filed on November 19, 2021, as timely filed (Dkt. Nos. 49; 50).

IV. Motion For Leave To File Sur-reply

Finally, before the Court is a motion for leave to file sur-reply by separate defendants Mr. Clifford and Ms. Mongold (Dkt. No. 47). Mr. Clifford and Ms. Mongold argue that Mr. Rector

and Ms. Rector’s “blatant misstatement of the law,” facts of the case, and of Mr. Clifford and Ms. Mongold’s response necessitates further response (*Id.*, ¶ 2). Mr. Clifford and Ms. Mongold state that the proposed sur-reply contains information that will assist the Court in ruling on Mr. Rector and Ms. Rector’s motion for partial summary judgment (*Id.*, ¶ 3). No party has filed an objection to the motion, and the time to do so has passed. Accordingly, and for good cause shown, the Court grants Mr. Clifford and Ms. Mongold’s motion (Dkt. No. 47). The Court directs Mr. Clifford and Ms. Mongold to file their sur-reply within seven days of entry of this Order.

V. Status Report

The Court directs the parties jointly, or each party separately if there is not agreement, to file a status report with the Court within seven days of the entry of this Order, reporting to the Court on the status of the progress of discovery in this case and an estimate of the time necessary to complete discovery and any other matters the parties wish to raise.

VI. Conclusion

For the foregoing reasons:

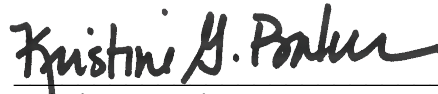
1. The Court has under advisement the City’s motion to stay consideration of Mr. Rector and Ms. Rector’s motion for partial summary judgment (Dkt. No. 39).
2. The Court grants the City’s motion for leave to file a reply to Mr. Rector and Ms. Rector’s response to the City’s motion to stay consideration of the motion for partial summary judgment, and the Court directs the City to file its reply within seven days from the entry of this Order (Dkt. No. 42).
3. The Court grants the County Defendants’ motion unopposed motion for brief extension of time (Dkt. No. 43). Accordingly, the Court considers County Defendants’ responses filed on November 19, 2021, as timely filed (Dkt. Nos. 49; 50).

4. The Court grants, in part, and denies, in part, the City's motion for a new scheduling order and a ruling on separate defendant's motion to stay consideration of Mr. Rector and Ms. Rector's motion for partial summary judgment (Dkt. No. 58). The Court will set a new trial date and enter a new scheduling order, which will include extended discovery and dispositive motions deadlines among others, by separate Order.

5. The Court grants Mr. Clifford and Ms. Mongold's motion for leave to file a sur-reply (Dkt. No. 47). The Court directs Mr. Clifford and Ms. Mongold to file their sur-reply within seven days of entry of this Order.

6. The parties jointly, or separately, shall file with the Court within seven days of the entry of this Order a status report, reporting to the Court on the status of the progress of discovery in this case and an estimate of the time necessary to complete discovery, along with any other matters the parties wish to raise.

It is so ordered this 2nd day of September, 2022.



Kristine G. Baker
United States District Judge